IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7586 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MADRASA MOHAMADIYAH & PUNJATNIYA SOCIETY & 1 - Petitioner(s)
Versus
ROZLINBEN J AUR & 2 - Respondent(s)

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Appearance :

MR AJ SHASTRI for Petitioner(s) : 1 - 2.
MR GC RAY for Respondent(s) : 1,
MR VAIBHAV VYAS FOR MR PARESH UPADHYAY for Respondent(s) : 1,
MR MTM HAKIM for Respondent(s) : 2,
MR SIRAJ GORI AGP for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 14/06/2006

ORAL JUDGMENT

1. Heard learned advocates appearing for the parties. The petitioner-school management has challenged the order

dated 14th June, 1995 passed by the Gujarat Primary Education Tribunal in Application No. 260/93 filed by respondent no.1 herein.

2. It is not in dispute that respondent no.1 though regularly recruited as a teacher, she was an untrained teacher. The respondent no.1 claimed the salary at the scale prescribed for trained teachers. This prayer made by respondent no.1 was accepted by the Tribunal in impugned order dated 14th June, 1995.

3. The learned advocate Shri Shastri submitted that there is no dispute about the fact that the respondent no.1 was an untrained teacher. He submitted that school management called for necessary qualifications to be categorised as a trained teacher. She however failed to do so. She, therefore, cannot claim salary prescribed for trained teachers.

3. There is no dispute that respondent no.1 was an untrained teacher. Learned advocate Shri Vaibhav Vyas for respondent no.1 also does not dispute that she was otherwise paid salary prescribed under the rules for untrained teachers.

4. In view of the above factual parameters, the direction of the Tribunal to pay salary to respondent no.1 which is otherwise prescribed for trained teachers cannot be sustained. The impugned order passed by the Primary Education Tribunal is, therefore, quashed. Rule is made absolute. No order as to costs.

(Akil Kureshi, J.)

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